35TH CONGRESS, 1st Session. } SENATE. { REP. COM. No. 300.

IN THE SENATE OF THE UNITED STATES.

JUNE 3, 1858.—Ordered to be printed.

Mr. STUART made the following

REPORT.

[To accompany Bills S. 22 and 220.]

The Committee on Public Lands, to whom were referred the "bill for the relief of the citizens and owners of property in the city of Omaha, Nebraska Territory, and Sioux city, State of Iowa," and the "bill for the relief of certain citizens of Sioux city, State of Iowa," with the "petition of 111 *residents of Sioux city, Iowa, asking for the passage of an act authorizing the entry of a portion of the lands on which said town is situated," have carefully considered the subject to which they relate, and respectfully report:*

That under the act of 23d May, 1844, there has been entered at Sioux city, in the State of Iowa, the east half of section 29, township 89 north, range 47 west, and at Omaha city, Territory of Nebraska, 320 acres have been entered, and in a very peculiar and unusual form. The number of inhabitants at Omaha city is represented to be about three thousand, and the building has been extended, in various directions, beyond the limits of the said town site entry. The legislature of Nebraska passed an act incorporating said city, and including within its limits about 3,000 acres of land. Within these limits individuals desiring to make pre-emptions have not been permitted to settle, and it is represented that all such have been prohibited by persons claiming to hold these 3,000 acres for a town site.

At Sioux city, it is represented, there are about fifteen hundred inhabitants, and that on the half section entered for a town site there are not over twenty or thirty very cheap buildings, perhaps—mere shanties. The great amount of settlement is on the half section immediately east, being the west half of section 28; some, perhaps, on the southeast quarter of the same section.

These settlements have been made under sales by persons who had laid out the land into town lots and sold them at high prices—in some instances, it is said, as high as $1,500 per lot—and who now ask that Congress will permit them by law to enter this land, to the amount

of three-quarters of a section, at the minimum price of such lands. A similar course of proceeding has been had at Omaha city, and the owners there make a similar request.

After very carefully considering these applications, the committee are of opinion that there are no principles of equity or justice which requires the relief asked, and that to grant it would be in derogation of sound public policy.

The original design of the town site law was to authorize locations for town site purposes, of not exceeding 320 acres, for the purpose of allowing persons who had gone in advance of public sales and made settlements for business purposes, and with no speculative intentions, and who could not be protected under the general pre-emption laws. Such settlers had great merit, because they enabled the agriculturist to obtain the necessaries of life and business, with much less inconvenience than they otherwise would; but, like most laws of this character, this town site law has been used most extensively for mere speculative purposes. Individuals go in advance of all settlements; select the best business points in the country, and the sections where county seats will probably be located when new counties come to be organized, and enter these lands under this town site law; and so soon as they can be sold, they lay them out into town lots and sell them at speculative prices, thus entirely evading and, in many instances, defeating the wise purposes of that law. In many instances, it is said, they have enlarged these locations by locating the adjoining lands under a slightly changed name, thus procuring an almost unlimited control over the valuable points in the new Territories, without any sanction of law. When this practice came to the knowledge of the Commissioner of the General Land Office, he arrested it. In the case of Sioux city, the first entry of the east half of section 29 was called Sioux city. Then the west half of section 28 was laid out, and assumed to be sold as Middle Sioux city, and the southeast quarter of that section as East Sioux city; but the Commissioner refused these additional entries as not being authorized by the town site law. As before stated, the number of similar entries has been very large, and in the progress of settlements must necessarily be increased to many thousands. If, therefore, Congress were now to permit companies, who have thus taken possession of the public domain, to enter such lands, and without any more restrictions, at the minimum price, it is very obvious that this innumerable band of speculators would furnish a fresh number of applications sufficient to engross, not only a large share of the public lands, but a large share of the time of Congress also, in examining and passing upon their claims. And when it is considered that it is in the power of any actual settler to perfect a pre-emption to 160 acres of land, and in the space of about three months to procure such a title as will enable him to lay it out into town lots, and dispose of it for town purposes, if he chooses, the committee think all argument in favor of such legislation as is proposed in these cases is at an end.

Your committee therefore report adversely both upon the bills and memorials.

Mr. HARLAN submitted the following as

THE VIEWS OF THE MINORITY.

The undersigned, a minority of the Committee on Public Lands, to which committee was referred "A bill for the relief of the citizens and owners of property in the city of Omaha, Nebraska Territory, and Sioux city, State of Iowa," would most respectfully ask leave of the Senate to report:

That in tracing back the action of the government in regard to the disposal of the public lands, it will be found that it has been customary *to recognize municipal* as well as agricultural settlement of the public domain, and that a preference has always been given to the former over the latter, by excluding from agricultural pre-emption laws "such portions of the public lands which have been selected as the site for a city or town," and such parcels or lots of land as are actually settled and occupied for the purposes of trade, and not agriculture; and while the general law granting pre-emptions for municipal purposes limits such rights to 320 acres, yet the practice of the government has always been to enlarge these rights where it was shown that such municipal settlement could not be covered by a half section entry. In the case of the early settlement of towns in the west, the French were accustomed to locate their claims upon narrow strips of land fronting on the river, and running back to a considerable distance, containing each several acres, and in the aggregate several hundred and even thousands of acres, and these settlements were always recognized by Congress to the full extent claimed. The later municipal settlements in the west have also been provided for in a like manner, and to an extent greater than 320 acres. In 1836 Congress not only granted pre-emptions to the extent of 640 acres each to the owners and occupants of the towns of Mineral Point, in Wisconsin, Bellevue, Dubuque, Peru, Burlington, and Fort Madison, in Iowa, but actually gave the proceeds of the pre-emption sales to the respective towns for municipal purposes. Council Bluffs, in Iowa, was also made the subject of a special act for an enlargement of the pre-emption privilege to the extent of 640 acres.

The executive branch of the government, too, has carried out this liberal spirit towards municipal settlements, and the owners and occupants of several towns in Minnesota, Nebraska, and Kansas, by having different portions thereof incorporated under different names, have been allowed to pre-empt 320 acres, under the act of 1844, *for each part incorporated;* making an aggregate, in some instances, at one place, of even thousands of acres. In the cases submitted for the action of the committee, the facts are as follows:

At Omaha city, although about 3,000 acres have been actually laid off, not much over one-half of that quantity has been settled upon and occupied for town purposes; that said town contains a population of about 3,000 people, all of whom, through the mayor of the city and the

common council, petition for an enlargement of the provisions of the act of 1844, so as to include such portions as are so occupied—the 320 acres entered by the mayor covering not more than one half the improvements of the city. At Sioux city the town covers an area of 733 acres, of which 265 acres have been entered by the county judge, under the act of 1844, and 468 acres are yet unentered. On these 468 acres there are, at least, 1,500 settlers and occupants and many large and valuable improvements, and for the entry of which, by an enlargement of the provisions of the act of 1844, all the owners and occupants are anxious.

The growth and prosperity of both the towns referred to depend in a great measure upon the completeness of title; and the fact that portions of each are already entered, and other portions not, tends to excite a local jealousy that is seriously detrimental to the interests of the city at large.

The Commissioner of the General Land Office having examined the proposed bill, and being officially cognizant of all the facts of settlement and improvement, has given his unqualified recommendation for the passage of the same.

The undersigned believing that by the passage of the bill in question the interests of two large and growing communities will be greatly promoted, while the government will not receive one cent less for the lands than if otherwise disposed of, and inasmuch as the quantity to be entered at each place will depend upon the quantity actually settled and occupied for town purposes—a fact to be determined by the Commissioner of the General Land Office, on proof—it is believed that the passage of the bill in question will be but a continuance of the true and wholesome policy heretofore pursued in similar cases by the government, and will be an act of simple justice to the people who, in settling on the frontier, have risked their labor and property in a development of the resources of the country. The undersigned therefore recommends the favorable action of the Senate and the passage of said bill.

JAMES HARLAN.